

#3

Attorney's Docket No.: 004933.P002



PATENT

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

SCALABLE NETWORK FILE SYSTEM

the specification of which

X is attached hereto.

X was filed on October 19, 2000 as

United States Application Number 09/694,071

or PCT International Application Number \_\_\_\_\_

and was amended on \_\_\_\_\_

(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d), of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s)</u>			<u>Priority Claimed</u>	
<u>Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>	<u>Yes</u>	<u>No</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

<u>Application Number</u>	<u>Filing Date</u>
_____	_____
_____	_____

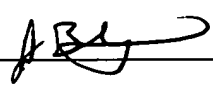
I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

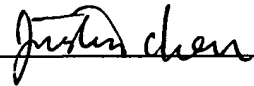
Application Number	Filing Date	Status -- patented, pending, abandoned
Application Number	Filing Date	Status -- patented, pending, abandoned

I hereby appoint the persons listed on Appendix A hereto (which is incorporated by reference and a part of this document) as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

Send correspondence to R. Alan Burnett, BLAKELY, SOKOLOFF, TAYLOR &  
(Name of Attorney or Agent)  
ZAFMAN LLP, 12400 Wilshire Boulevard 7th Floor, Los Angeles, California 90025 and direct  
telephone calls to R. Alan Burnett, (425) 827-8600.  
(Name of Attorney or Agent)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole/First Inventor Jared E. Bobbitt  
Inventor's Signature  Date 1/11/01  
Residence Seattle, Washington Citizenship U.S.A.  
(City, State) (Country)  
Post Office Address 1310 Minor Ave., #507  
Seattle, Washington 98101

Full Name of Second/Joint Inventor Jiong (Justin) Chen  
Inventor's Signature  Date 1/11/01  
Residence Seattle, Washington Citizenship Canada  
(City, State) (Country)  
Post Office Address P.O. Box 715  
Seattle, Washington 98111

Full Name of Third/Joint Inventor Stephan A. Doll

Inventor's Signature 

Date

11/1/00

Residence Seattle, Washington

(City, State)

Citizenship

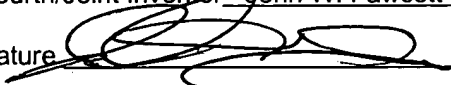
Germany

(Country)

Post Office Address 427 North 70<sup>th</sup> Street

Seattle, Washington 98103

Full Name of Fourth/Joint Inventor John W. Fawcett

Inventor's Signature 

Date

11 Jan 00

Residence Burien, Washington

(City, State)

Citizenship

U.S.A.

(Country)

Post Office Address 16725 Ambaum Blvd. S.

Burien Washington 98148

Full Name of Fifth/Joint Inventor Marc T. Friedman

Inventor's Signature 

Date

11 Jan 00

Residence Seattle, Washington

(City, State)

Citizenship

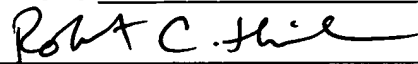
U.S.A.

(Country)

Post Office Address 1443 NW 61<sup>st</sup> St., #5

Seattle, Washington 98107

Full Name of Sixth/Joint Inventor Robert C. Hickman

Inventor's Signature 

Date

January 11, 2001

Residence Duvall, Washington

(City, State)

Citizenship

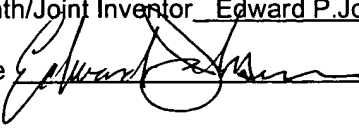
U.S.A.

(Country)

Post Office Address 15215 287<sup>th</sup> Ave. NE

Duvall, Washington 98019

Full Name of Seventh/Joint Inventor Edward P. Johnson

Inventor's Signature 

Date

January 11, 2001

Residence Seattle, Washington

(City, State)

Citizenship

U.S.A.

(Country)

Post Office Address 1727 16<sup>th</sup> Ave., #7

Seattle, Washington 98122

Full Name of Eighth/Joint Inventor Ty Lam

Inventor's Signature \_\_\_\_\_ Date \_\_\_\_\_

Residence Redmond, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 6817 143<sup>rd</sup> Ct. NE  
Redmond, Washington 98052

Full Name of Ninth/Joint Inventor Patrick Wing Sang Lau

Inventor's Signature  Date 1/11/2001

Residence Issaquah, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 2060 Newport Way NW  
Issaquah, Washington 98027

Full Name of Tenth/Joint Inventor Joseph P. Mullally

Inventor's Signature  Date 1-11-2001

Residence Seattle, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 4729 45<sup>th</sup> Ave. NE  
Seattle, Washington 98105

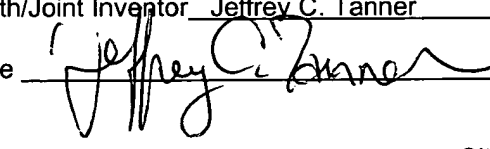
Full Name of Eleventh/Joint Inventor Robert J. Smith

Inventor's Signature  Date 1/15/2001

Residence Seattle, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 9301 Linden Ave. N., Apt. C  
Seattle, Washington 98103

Full Name of Twelfth/Joint Inventor Jeffrey C. Tanner

Inventor's Signature  Date 11 Jan 2001

Residence Seattle, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 6524 Palatine Ave. N.  
Seattle, Washington 98103

Full Name of Eighth/Joint Inventor Ty Lam

Inventor's Signature *Ty Lam* Date 1/24/2001

Residence Redmond, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 6817 143<sup>rd</sup> Ct. NE  
Redmond, Washington 98052

Full Name of Ninth/Joint Inventor Patrick Wing Sang Lau

Inventor's Signature \_\_\_\_\_ Date \_\_\_\_\_

Residence Issaquah, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 2060 Newport Way NW  
Issaquah, Washington 98027

Full Name of Tenth/Joint Inventor Joseph P. Mullally

Inventor's Signature \_\_\_\_\_ Date \_\_\_\_\_

Residence Seattle, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 4729 45<sup>th</sup> Ave. NE  
Seattle, Washington 98105

Full Name of Eleventh/Joint Inventor Robert J. Smith

Inventor's Signature \_\_\_\_\_ Date \_\_\_\_\_

Residence Seattle, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 9301 Linden Ave. N., Apt. C  
Seattle, Washington 98103

Full Name of Twelfth/Joint Inventor Jeffrey C. Tanner

Inventor's Signature \_\_\_\_\_ Date \_\_\_\_\_

Residence Seattle, Washington Citizenship U.S.A.  
(City, State) (Country)

Post Office Address 6524 Palatine Ave. N.  
Seattle, Washington 98103

## APPENDIX A

William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. P42,261; William Thomas Babbitt, Reg. No. 39,591; Carol F. Barry, Reg. No. 41,600; Jordan Michael Becker, Reg. No. 39,602; Lisa N. Benado, Reg. No. 39,995; Bradley J. Berezna, Reg. No. 33,474; Michael A. Bernadieu, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46,149; Gregory D. Caldwell, Reg. No. 39,926; Andrew C. Chen, Reg. No. 43,544; Thomas M. Coester, Reg. No. 39,637; Donna Jo Coningsby, Reg. No. 41,684; Florin Corie, Reg. No. 46,244; Dennis M. deGuzman, Reg. No. 41,702; Stephen M. De Klerk, Reg. No. P46,503; Michael Anthony DeSanctis, Reg. No. 39,957; Daniel M. De Vos, Reg. No. 37,813; Sanjeet Dutta, Reg. No. P46,145; Matthew C. Fagan, Reg. No. 37,542; Tarek N. Fahmi, Reg. No. 41,402; George Fountain, Reg. No. 37,374; Paramita Ghosh, Reg. No. 42,806; James Y. Go, Reg. No. 40,621; James A. Henry, Reg. No. 41,064; Libby N. Ho, Reg. No. P46,774; Willmore F. Holbrow III, Reg. No. P41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W. Hoover II, Reg. No. 32,992; Eric S. Hyman, Reg. No. 30,139; William W. Kidd, Reg. No. 31,772; Sang Hui Kim, Reg. No. 40,450; Walter T. Kim, Reg. No. 42,731; Eric T. King, Reg. No. 44,188; Erica W. Kuo, Reg. No. 42,775; George Brian Leavell, Reg. No. 45,436; Kurt P. Leyendecker, Reg. No. 42,799; Gordon R. Lindeen III, Reg. No. 33,192; Jan Carol Little, Reg. No. 41,181; Joseph Lutz, Reg. No. 43,765; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, under 37 C.F.R. § 10.9(b); Paul A. Mendonsa, Reg. No. 42,879; Clive D. Menezes, Reg. No. 45,493; Chun M. Ng, Reg. No. 36,878; Thien T. Nguyen, Reg. No. 43,835; Thinh V. Nguyen, Reg. No. 42,034; Dennis A. Nicholls, Reg. No. 42,036; Daniel E. Ovanezian, Reg. No. 41,236; Kenneth B. Paley, Reg. No. 38,989; Marina Portnova, Reg. No. P45,750; William F. Ryann, Reg. No. 44,313; James H. Salter, Reg. No. 35,668; William W. Schaal, Reg. No. 39,018; James C. Scheller, Reg. No. 31,195; Jeffrey Sam Smith, Reg. No. 39,377; Maria McCormack Sobrino, Reg. No. 31,639; Stanley W. Sokoloff, Reg. No. 25,128; Judith A. Szepesi, Reg. No. 39,393; Vincent P. Tassinari, Reg. No. 42,179; Edwin H. Taylor, Reg. No. 25,129; John F. Travis, Reg. No. 43,203; Joseph A. Twarowski, Reg. No. 42,191; Tom Van Zandt, Reg. No. 43,219; Lester J. Vincent, Reg. No. 31,460; Glenn E. Von Tersch, Reg. No. 41,364; John Patrick Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. P46,322; Thomas C. Webster, Reg. No. P46,154; and Norman Zafman, Reg. No. 26,250; my patent attorneys, and Firasat Ali, Reg. No. 45,715; and Justin M. Dillon, Reg. No. 42,486; my patent agents, of BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (310) 207-3800, and James R. Thein, Reg. No. 31,710, my patent attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

## APPENDIX B

### Title 37, Code of Federal Regulations, Section 1.56 Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
  - (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
  - (2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
  - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.